

# SENATE PANEL OFFERS LEGISLATION TO CURB INTELLIGENCE AGENTS

## SAFEGUARDS FOR CIVIL LIBERTIES

### Charters Would Limit Covert Work Abroad and Surveillance at Home —Would Replace Carter Order

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WASHINGTON, Feb. 9—After three years of investigation, the Senate Select Committee on Intelligence today introduced legislation intended to prohibit political assassinations, limit the scope of covert operations abroad and protect the civil liberties of Americans against interference by the intelligence community.

The legislative package contains about 200 pages of proposals covering the Central Intelligence Agency, the National Security Agency and the intelligence operations of the Federal Bureau of Investigation and the Department of Defense. It would create a director of national intelligence and formalize a command structure similar to one envisaged in President Carter's executive order on intelligence reorganization last month.

If these legislative charters become law, they would supersede Mr. Carter's order. Committee members said that the debate could last nearly a year. The charter legislation was prepared with the cooperation of the Carter Administration and the intelligence agencies.

#### Bayh Voices Satisfaction

The committee chairman, Senator Birch Bayh, Democrat of Indiana, told newsmen at a briefing that, above all, he believed the package provided "for the collection of necessary information about foreign powers and international terrorists without intruding upon the exercise of constitutional rights."

The initial reaction of civil libertarians was cautious. The American Civil Liberties Union issued a statement that praised the proposals for containing more protections than Mr. Carter's order but added that "unfortunately these important principles," such as judicial warrant requirements and limitations on investigations, "are nearly overwhelmed by exceptions in the draft charters, and other principles are overlooked entirely."

The intelligence community here, which privately chafed under Mr. Carter's order, is expected to find provisions it does not like in the new proposals.

The package contained the following highlights:

¶In foreign operations, the bill prohibits its covert activities that "are likely to result in assassination, terrorism, torture, the mass destruction of property, creation of food or water shortages, or epidemics, the overthrow of democratic governments, or the support of actions by foreign police intelligence or internal security forces of foreign countries which

violate human rights." The charter specifically prohibits political assassination, but does not bar the killing of foreign agents abroad. It formalizes the chain of command of covert operations and provides for the swift notification of Congress.

¶Domestically, the proposal would place responsibility for counterespionage and counterterrorism investigations in the United States in the hands of the Attorney General and the Federal Bureau of Investigation. It calls for the Government to obtain a warrant from one of a panel of selected Federal judges to permit an electronic surveillance or the search of premises in the United States or the selection of American citizens for these techniques abroad. It attempts to prevent harassment programs, such as the F.B.I.'s Cointelpro, by tightening up on how the agencies retain or distribute information from their files, and it specifically prohibits interference with Americans on lawful pursuits.

¶In the area of recruitment, the charter forbids the intelligence agencies to pay journalists, religious officials or academics in covert operations, but does not bar "voluntary" participation. It permits medical or scientific tests on human beings under new safeguards and allows the establishment of bogus companies and the infiltration of private American institutions to provide "cover."

¶The bill would create a director of national intelligence, who would have budgetary control over the intelligence community and more centralized powers than former directors of the C.I.A. had, but it leaves the powerful National Security Agency under the aegis of the Department of Defense.

¶The bill for the first time creates a statutory charter for the National Security Agency. It would not prohibit the agency's large-scale intrusions on domestic and international communications, but would establish specific regulations on "targeting" the calls, cables or international radio messages of American citizens. The agency would have to obtain a Federal warrant from a judge, just as domestic wiretapping agencies do, to record and retain messages of Americans picked up by its computerized listening posts.

#### Criminal Penalties Proposed

The bill provides criminal penalties for several offenses, including a \$1,000 fine or one year in prison for illegal searches; a \$10,000 fine and five-year term for an illegal electronic surveillance and a \$10,000 fine and five years in prison for conducting medical experiments on unwitting subjects.

But it proposed its stiffest penalty for "present or former Government employees who deliberately disclose the identity of secret agents, when the disclosure results in injury to the agent." The penalty for conviction in this case would be a \$50,000 fine and five years' imprisonment. The section was clearly aimed at stopping such leaks as James A. G. S. book, "Inside the Company," which identified covert employees of the C.I.A. Several years ago.

Senator Walter D. Huddleston, the Kentucky Democrat who was chairman of the panel that drafted the charters, strongly argued that adoption of these protections as laws was preferable to the temporary nature of an executive order.

In addition to criminal sanctions, the proposals seem to rely heavily on creating "paper trails" that would require Government officials at each level to approve in writing sensitive or dangerous projects.

For instance, if the executive branch chose to initiate a covert action it would have to review the plan in a formal meeting and could not, as was the case in a practice disclosed in the Nixon years, begin dangerous international projects with a series of telephone calls.

#### Certification in Writing

Moreover, the President would have to certify in writing that the particular covert action was "essential to the conduct of the foreign policy or the national defense" and that overt activity would not suffice. In the 1975 Senate investigation, several instances were disclosed where the United States appeared to enter upon covert adventures abroad that were unnecessary or unwise.

Another method that the committee proposes in an effort to avoid further abuse is to strengthen the role of Congressional oversight and the lines of responsibility within the executive branch. It confirmed the power to act as an inspection team now accorded to the three-man, Presidentially appointed Intelligence Oversight Board by executive order. However, the committee would also require that the Senate have "advise and consent" authority over the appointees and establish regular reporting channels to the Congressional committees.

On domestic matters, which include many recruitment and support techniques used by C.I.A. as well as counterintelligence by the F.B.I., the charter proposals would make the Attorney General the arbiter of what is legal. He would be

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required to authorize specifically such techniques as gathering information from tax returns, physical surveillance and mail cover (the recording of mail transmission) before the F.B.I. could employ them in counterintelligence cases.

But on many of its suggested protections, the committee seemed to leave the door open to debate over whether its safeguards were adequate. For instance, on searches, which were often conducted in the past as "surreptitious entries" by the C.I.A. and F.B.I., the committee would require a warrant from one of a panel of selected Federa

The charter permits warrants to be issued for "multiple searches" instead of single entries to find one particular piece of evidence, and the technique is not limited to emergency or extraordinary situations, according to an A.C.L.U. analysis.

In other cases, although the practice is generally prohibited without careful authorization from the Attorney General it is permitted under "exigent" circumstances, or where, in the agency's opinion, an emergency exists.

#### Research Permitted

The charter permits the intelligence agencies to conduct research in private and public academic institutions as they have in the past, but calls for the institutions to be informed that they are involved with the C.I.A. or another intelligence agency.

The proposal would permit the Attorney General to waive United States laws in certain narrow instances where an intelligence operation was under way. Senator Charles McC. Mathias, Republican of Maryland, said that this might be a situation where espionage laws against release of secret data needed to be waived to pass information to a "double agent."

He said that the bill would forbid the Attorney General to waive portions of this intelligence act or use the power in instances where violence might result.